IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICEM.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 19432 of 2004

Between:

M/s Bharani Trading Company Tuni, East Godavari District
Rep. by its Propritrix Smt.D.Gangaveni.

..... PETITIONER

AND

1 Commercial Tax Officer, Tuni,

East Godavari District
2 Deputy Commercial Tax Oflficer,

Tuni, East Godavari District.
3 Deputy Commissioner (CT) Kakinada Div.,

Kakinada
4 Appellate Deputy Commissioner (CT) Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the respondents 1 to 3 in taking coercive steps by way of issuing form 6 and 7 notices under Revenue Recovery Act and threatening to evict/disposes the habitants forcibly from the residential house, for collection of the disputed taxes during the pendency of the appeals and stay applications as

arbitrary highhanded, illegal without jurisdiction, contrary to the decision of the Hon'ble Court and consequently restrain the respondents 1 to 3 from proceeding further under the Revenue Recovery Act till the disposal of the appeals and /or stay applications filed by the petitioner and to pass.

Counsel for the Petitioner:MR.P.GIRISH KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER: (per TCSR,J)

We have heard the learned counsel for the petitioner and the learned Special Standing Counsel for Commercial Taxes.

It is represented before us by the learned Special Standing Counsel for Commercial Taxes that the stay applications filed pertaining to the assessment years 1997-98 and 1998-99 were disposed of on 17-08-2000 and 18-08-2000 respectively rejecting the same and in fact they were served on the petitioner on 31-08-2000.

The learned counsel for the petitioner disputes the same on the ground that no such orders have been served upon the petitioner. Service apart, the fact remains that the stay applications were rejected on 17-08-2000 and 18-08-2000, that is more than four years back and that the appeals remained undisposed of on account of the blanket stay passed by this court initially.

In our considered view, it is expedient to pass the usual order by directing the petitioner to deposit half of the disputed tax after giving credit to the pre-deposit paid at the time of filing appeals, which are pending adjudication before the fourth respondent.

The order passed by this court on 19-10-2004 is hereby modified to the effect that there shall be stay of collection of disputed tax on the condition of the petitioner depositing 50% of the same giving credit to the pre-deposit made at the time of filing the appeals, in which event, the fourth respondent shall not

take coercive steps by proceeding further with the proposed auction to sell the property and shall pass appropriate orders on merits in the event of any claim made. If the petitioner failed to deposit the same within four weeks from the date hereof, the respondents are at liberty to proceed with the auction.

Accordingly, the writ petition is disposed of with the above observation. No order as to costs.

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M.H.S.ANSARI, J

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T.CH.SURYA RAO, J

Date: 16-03-2005

Prv

To

1 The Commercial Tax Officer,

Tuni, East Godavari District
2 The Deputy Commercial Tax Oflficer,

Tuni, East Godavari District.
3 The Deputy Commissioner (CT)

Kakinada Div., Kakinada
4 The Appellate Deputy

Commissioner (CT) Visakhapatnam.

5 Two CCs to the GP FOR CIVIL SUPPLIES,

High Court of A.P., Hyderabad (O.U.T.)

6 Two CD copies